IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

MONDAY, THE 2ND JULY 2007 / 11TH ASHADHA 1929

Crl.Rev.Pet.No. 645 of 1999()

CRA.241/1996 of SESSIONS COURT, THRISSUR
CC.64/1995 of JUDL. MAGISTRTE OF FIRST CLASS COURT-III, THRISSUR

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REVN. PETITIONER:
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1. **BALAN NAIR, AGED 53 YEARS**
   S/O UNNI NAIR, RAYIRATH VEEDU
   PANANCHERRY VILLAGE
   DESOM, THRISSUR

2. **PREMAN, AGED 28 YEARS**
   S/O SANKARAN NAIR
   RAYIRATHU VEEDU, PANANCHERY VILLAGE
   DESOM, THRISSUR

BY ADV. SRI.SARVOTHAMAN

RESPONDENTS:

STATE OF KERALA REP. BY PUBLIC
PROSECUTOR, HIGH COURT OF KERALA
ERNAKULAM

BY PUBLIC PROSECUTOR SRI.C.K.SURESH

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 02/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER ON Crl.M.P.NO.2851/99 IN Crl.R.P.NO.645/99

DISMISSED

02/07/2007 **SD/-, K.R.UDAYABHANU, JUDGE.**

K.R.UDAYABHANU, J

Crl.R.P.No.645 of 1999

Dated this the 2nd day of July, 2007

O R D E R

The revision petitioners stand convicted for the offence under Sections 341, 447, 448 and 325 read with Section 34 IPC and sentenced to undergo R.I. for a period of one month each for the offences under Sections 325, 341, 447 and 448 read with 34 IPC and also to pay a fine of Rs.5,000/- each for the offence under Section 325 IPC. The sentences of imprisonment shall run concurrently.

2. The prosecution version is that the accused 1, 2 and 3 (A3 is absconding) on 15.2.1995 at about 9.00 p.m., trespassed into the residential compound of the defacto complainant and caused grievous hurt to her by attacking with a stick resulting in fracture to the right forearm.

3. The evidence adduced in the matter consisted the testimony of PWs' 1 to 9 and Exts. P1 to P5. Although, charge sheeted for the offence under Section 326 read with Section 34 IPC, as the weapon was not identified the accused were convicted for the lesser offence under Section 325 IPC.

4. The counsel for the revision petitioner has only

pleaded for leniency pointing out that the incident has taken place in February 1995 and A1/first revision petitioner is right now 67 years of age and is suffering from various ailments.

5. Considering the evidence adduced in the matter and the concurrent findings of the courts below, I find that the conviction is only to be confirmed; and I do so. In the circumstances pointed out by the counsel for the revision petitioner, the sentence imposed for the offence under Section 325 IPC read with Section 34 is modified to imprisonment till the rising of the court and to pay a compensation of Rs.10,000/- by each of the accused to PW1 and in default, to undergo simple imprisonment for six months each. It is submitted that a sum of Rs.5,000/- each, the fine amount, has been deposited before the court below. If so, the revision petitioner will be liable to deposit the balance Rs.5,000/- each. The fine amount deposited shall be treated as compensation. The revision petitioners/A1 and A2 shall appear before the Judicial First Class Magistrate Court-III, Thrissur on 16.8.2007 to receive the sentence.

The criminal revision petition is disposed of accordingly.

K.R.UDAYABHANU,
JUDGE

csl